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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

FINISAR CORPORATION, a Delaware  
corporation,

Plaintiff,

v.

U.S. BANK TRUST NATIONAL  
ASSOCIATION, a national banking  
association, not in its individual capacity,  
but solely in its capacity as Indenture  
Trustee in behalf of all Holders of Finisar  
Corporation's 5¼% Convertible  
Subordinated Notes due 2008, 2½%  
Convertible Senior Subordinated Notes due  
2010, and 2½% Convertible Subordinated  
Notes due 2010; and DOES 1 through 10,  
inclusive,

Defendants.

AND RELATED COUNTERCLAIMS.

Case No. 5:07-CV-04052-JF (PVT)

**[Proposed] ORDER GRANTING FINISAR  
CORPORATION'S MOTION FOR  
SUMMARY JUDGMENT**

Date: **Friday, July 11, 2008**

Time: **9:00 a.m.**

Courtroom: **3**

District Judge: Hon. Jeremy Fogel

Magistrate Judge: Hon. Patricia V. Trumbull

Complaint Filed: June 22, 2007

Trial Date Set: None Yet

1 Plaintiff Finisar Corporation's Motion for Summary Judgment (the "Motion") was filed in  
2 the above-captioned action (the "Action") on June 6, 2008 and heard on July 11, 2008. The  
3 Court, having considered the written and oral submissions of the parties in connection with the  
4 Motion, and good cause appearing therefore, hereby GRANTS the Motion, and ADJUDGES,  
5 DECREES, and ORDERS as follows:

6 1. Plaintiff Finisar Corporation ("Finisar") and defendant U.S. Bank Trust National  
7 Association ("U.S. Bank") are parties to certain trust indentures dated October 15, 2001, October  
8 15, 2003, and October 12, 2006 ("Indentures").

9 2. Finisar filed its Forms 10-Q for fiscal quarters ended October 29, 2006 and  
10 January 31, 2007 and its Form 10-K for the year ended April 30, 2007 (collectively, "Reports")  
11 with the Securities and Exchange Commission ("SEC") on December 4, 2007.

12 3. There has been no Default under the Indentures by reason of any delay in Finisar's  
13 filing of its Reports with the SEC.

14 4. There is no Continuing Event of Default under the Indentures by reason of any  
15 delay in Finisar's filing of its Reports with the SEC.

16 5. Neither U.S. Bank nor any of the holders ("Holders") of any of the notes issued  
17 under the Indentures has any right or ability, by reason of any delay in Finisar's filing of its  
18 Reports with the SEC, to declare or enforce any acceleration pursuant to Sections 6.02 and/or  
19 6.03 of the Indentures.

20 6. Neither U.S. Bank nor any of the Holders has any right or ability, by reason of any  
21 delay in Finisar's filing of its Reports with the SEC, to seek damages from Finisar pursuant to  
22 Section 6.03 of the Indentures.

23 7. No remedy or right of action is available under the Indentures, to either U.S. Bank  
24 or any of the Holders, by reason of any delay in Finisar's filing of its Reports with the SEC.

25 8. Finisar has no obligation to pay any of the attorney's fees incurred by U.S. Bank in  
26 connection with any delay in Finisar's filing of its Report with the SEC.

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1           9.       Within ten (10) days of the date hereof, U.S. Bank shall pay to Finisar  
2 \$317,817.58.

3  
4 DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Jeremy Fogel  
United States District Judge